

Message Text

CONFIDENTIAL

PAGE 01 CARACA 12363 212157Z
ACTION ARA-14

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COME-00 DODE-00 EB-08 DOE-12 H-01 INR-07 INT-05
L-03 NSAE-00 NSC-05 OMB-01 PM-05 USIA-06 OES-07
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FM AMEMBASSY CARACAS
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C O N F I D E N T I A L CARACAS 12363

EO 11652 GDS
TAGS: ENRG VE
SUBJ: OIL COMPANY PROBLEMS MEETING WITH
MINISTRY OF ENERGY OFFICIALS
REF: STATE 281667

1. EMBASSY OFFICERS MET DEC 13 WITH DIRECTOR GENERAL FOR HYDROCARBONS AREVALO REYES, LEGAL ADVISORS OF MINISTRY OF ENERGY AND MINES, AND OFFICIALS OF THE REVERSION OFFICE TO FOLLOW UP NOV 11 DISCUSSION OF NATIONALIZATION PROBLEMS. A SUMMARY OF THIS MEETING IS GIVEN BELOW.

2. THE MINISTRY OF ENERGY OFFICIALS DESCRIBED IN CONSIDERABLE DETAIL THE PROCEDURES FOLLOWED IN ARRIVING AT THE AMOUNTS TO BE DEDUCTED FROM THE GUARANTEE FUND FOR THE CONDITION OF THE ASSETS. THEY STRESSED THE FOLLOWING POINTS:

A THE INCOME TAX LAW WAS REVISED IN EARLY 1975 IN ANTICIPATION OF NATIONALIZATION TO PERMIT THE COMPANIES TO CHARGE DIRECTLY TO THE GOV THE COST OF ALL NEW INVESTMENTS MADE DURING 1975, INCLUDING MOST OR ALL OF THE COST OF REPAIRS OR REPLACEMENT OF EXISTING ASSETS. THE GOV PAID OUT ABOUT \$500 MILLION TO THE COMPANIES UNDER THIS PROVISION, WHICH WAS COMPLETELY SEPARATE FROM THE COMPENSATION RESULTING FROM NATIONALIZATION.

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B NO DIRECT RELATION EVER EXISTED BETWEEN THE AMOUNT OF COMPENSATION ATTRIBUTED TO A GIVEN ASSET AND THE POTENTIAL CHARGES AGAINST THAT ASSET. NET BOOK VALUE AS SHOWN ON THE COMPANIES' TAX BOOKS WAS USED IN ACCORD WITH THE 1975 NATIONALIZATION LAW SIMPLY TO ARRIVE AT THE TOTAL AMOUNT OF COMPENSATION TO BE PAID FOR ALL OF THAT COMPANY'S ASSETS, INCLUDING THOSE CARRIED ON THE BOOKS AT ZERO VALUE. THIS WAS EXPRESSLY ACCEPTED BY THE

COMPANIES IN THE AGREEMENTS THEY SIGNED ACCEPTING COMPENSATION. THE DETERMINATION OF CHARGES AGAINST THESE ASSETS IS BASED ON THE REQUIREMENTS OF THE 1971 REVERSION LAW WHICH PROVIDED FOR THE REVERSION OF THE ASSETS TO THE NATIONAL WITHOUT COMPENSATION ON THE EXPIRATION OF THE EXISTING CONCESSIONS, I E FROM 1983 ONWARD.

C DETAILED RULES SETTING FORTH THE PROCEDURES TO BE FOLLOWED IN DETERMINING THE ASSET CHARGES WERE OFFICIALLY ANNOUNCED WEEKS BEFORE THE COMPANIES ACCEPTED THE FINAL TERMS OF THE COMPENSATION AGREEMENTS.

3. THE MINISTRY OFFICIALS SAID THEY NOW EXPECT TO PRESENT FINAL REPORTS ON ASSET DEDUCTIONS FOR ALL COMPANIES TO THE MINISTER IN THE NEXT TWO TO THREE MONTHS.

4. WITH REGARD TO THE COMPTROLLER GENERAL'S CLAIM, THE MINISTRY OF ENERGY ATTORNEYS EXPLAINED THAT WHILE THEY COULD NOT DISCUSS THE LARGE BACK TAX CLAIM SINCE THIS WAS THE RESPONSIBILITY OF THE

FINANCE MINISTRY, THEY COULD REVIEW THE STATUS OF A SIMILAR BUT MUCH SMALLER COMPTROLLER'S CLAIM INVOLVING THE MINISTRY OF ENERGY. IN THIS CASE, THE COMPTROLLER CHALLENGED A MINISTRY DETERMINATION INVOLVING THE ROYALTY RATES CHARGED AGAINST THE COMPANIES. THE MINISTRY SET FORTH ITS POSITION IN A FORMAL REBUTTAL OF THE CLAIM
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ADDRESSED TO THE COMPTROLLER'S OFFICE, BUT THE COMPTROLLER DECIDED TO PRESS THE CLAIM, WHICH IS NOW IN THE COURTS. THE MINISTRY'S REBUTTAL REMAINS, HOWEVER, IN THE RECORD AS THE EXECUTIVE'S OFFICIAL POSITION IN THE CASE. ALL OF THIS WAS TO SAY THAT THE MINISTRY DOES NOT EXPECT TO MAKE ANY ADDITIONAL FORMAL PRESENTATIONS TO THE COURTS IN THIS CASE. THEY INDICATED THAT WHILE A SIMILAR SITUATION PROBABLY PREVAILS IN THE CASE OF THE LARGER BACK TAX CLAIM, THIS WOULD HAVE TO BE DISCUSSED WITH OFFICIALS AT THE FINANCE MINISTRY. DR REYES PROMISED TO ARRANGE A MEETING FOR THE EMBASSY WITH APPROPRIATE OFFICIALS OF THAT MINISTRY.
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Message Attributes

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Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
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